

-Remarks-

Claims 1-18 and 30 are pending. Claims 1-18 and 30 were rejected.

Obviousness-Type Double Patenting Rejections.

1. Claims 1-17 and 30

Examiner rejected claims 1-17 and 30 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claim 63 of US Patent Serial No. 09/874,007 (the '007 application). This patent issued on June 22, 2004 as US Patent No. 6,753,322, (the '322 patent) after the issuance of Examiner's present rejection. A copy of the '322 patent is enclosed herewith for Examiner's convenience.

Applicants respectfully traverse.

Claim 63 is not claimed within the '322 patent. It was cancelled in a response filed on July 7, 2003.

Previously, Applicants requested that this rejection be held in abeyance pending the final allowance of this reference. Examiner noted that a notice of allowance was mailed out on July 28, 2003, and rejected this request. Unfortunately, Examiner did not first review the allowed claims, as the cancellation of claim 63 would have been evident.

Accordingly, Applicants respectfully request that Examiner reconsider and withdraw the rejection of claims 1 - 17 and 30 under the judicially-created doctrine of obviousness-type double patenting.

2. Claim 18

Examiner also rejected claim 18 under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 7-12 of US Application Serial No. 10/307,727 ('727 application) in view of Ashurst et al. (US Patent No. 6,143,277).

Applicants respectfully traverse.

First, applicants kindly note that claim 18 depends from the compound of claim 1 and that claim 1 is not obvious over the cited reference. Accordingly, claim 18, which adds additional limitations, cannot thereafter be obvious.

Irrespective of Examiner's conclusion with respect to above, since this is a provisional-type double patenting rejection, applicants request that the rejection be held in abeyance pending allowance of subject matter in the relevant patent application.



-Conclusion-

Applicants, having responded to all points and concerns raised by Examiner, believe this application to be in condition for allowance. An early and favorable action is respectfully requested.

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